

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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STELLAR SNACKS LLC, a Nevada limited liability company,

Case No. 3:19-cv-00716-MMD-CLB

ORDER

v

Plaintiff.

JM CONSTRUCTION ENGINEERING,
INC., a California corporation,

Defendant.

Plaintiff Stellar Snacks LLC initiated this action against Defendant JM Construction Engineering, Inc. (ECF No. 1). Having reviewed Plaintiff’s Complaint—which rests on diversity—the Court now issues an order to show cause why the Court should not *sua sponte* dismiss the case for lack of subject matter jurisdiction. See Fed. R. Civ. P. 12(h)(3); *Gilder v. PGA Tour, Inc.*, 936 F.2d 417, 421 (9th Cir.1991) (Federal courts “are bound to address [subject matter jurisdiction] *sua sponte* if it is questionable.” (citation omitted)).

District courts have original jurisdiction over civil actions where the matter is between citizens of different states, and where the amount in controversy exceeds \$75,000. 28 U.S.C. § 1332(a). To establish a natural person's citizenship, they must be both a citizen of the U.S. and domiciled in a particular state. *Kantor v. Wellesley Galleries, Ltd.*, 704 F2d 1088, 1090 (9th Cir. 1983). A person is domiciled in a location where he or she has established a "fixed habitation or abode in a particular place, and intends to remain there permanently or indefinitely." *Lew v. Moss*, 797 F.2d 747, 749-50 (9th Cir. 1986) (citation and internal quotes omitted). In contrast, a corporation is a citizen only of the state where its principal place of business is located, and the state in which it is incorporated. 28 U.S.C. § 1332(c)(1). On the other hand, "an LLC is a citizen of every state of which its owners/members are citizens." *Johnson v. Columbia Props. Anchorage, LP*,

1 437 F.3d 894, 899 (9th Cir. 2006). “[A]s with partnerships, where an LLC has, as one of
2 its members, another LLC, the citizenship of unincorporated associations must be traced
3 through however many layers of partners or members there may be to determine the
4 citizenship of the LLC.” *Zambelli Fireworks Mfg. Co. v. Wood*, 592 F.3d 412, 420 (3d Cir.
5 2010) (citation and internal quotes omitted).

6 Plaintiff alleges that complete diversity exists because Plaintiff is a Nevada LLC
7 with a place of business in Nevada, while Defendant is a California corporation “doing
8 business in Nevada.” (ECF No. 1 at 2.) “[T]he Court cannot possibly determine whether
9 complete diversity exists in this case” because Plaintiff’s members have not been
10 identified. See *Satarco Kish Trading, LLC v. Wamar Int’l Grp., LLC*, 2015 WL 12656920,
11 *1 (C.D. Cal. 2015) (noting that proper pleading of LLC citizenship requires identification
12 of the LLC’s owners or members). To the extent any of those LLC members is a business
13 entity, Plaintiff must trace the citizenship of any constituent unincorporated associations
14 down to the individual or incorporated members. Furthermore, Plaintiff must clearly identify
15 Defendant’s principal place of business. As “the party asserting diversity jurisdiction[,
16 Plaintiff] bears the burden of proof,” which it has not met. *Lew*, 797 F.2d at 749. Thus,
17 Plaintiff’s jurisdictional allegations are incomplete (ECF No. 1 at 2) and do not satisfy the
18 diversity of citizenship requirement under 28 U.S.C. § 1332(a).

19 It is therefore ordered that Plaintiff show cause why the Court should not dismiss
20 this case for lack of subject matter jurisdiction. Plaintiff will have 15 days to respond to this
21 Order. Failure to timely respond may result in dismissal for lack of subject matter
22 jurisdiction. Defendant may respond pursuant to LR 7-2.

23 DATED THIS 25th day of March 2020.

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25 
26 MIRANDA M. DU
27 CHIEF UNITED STATES DISTRICT JUDGE
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